

FOR MYSORE STATE

Home (194) Department

Ms SERIES.

G.O. NO. 2357 - 1954

Passed
M

Dated 6-8-1954

[Despatch Abstract.]

Public Prosecutor - Special - South Kanara
Dt - Treason - Embezzlement - Case (S.C. No
17/54 on the file of the Assistant. Sessions
Judge of South Kanara, Mangalore) - Sr.
Venkataraya Kamath, Advocate - Mangalore
Appointed as junior ~~counsel~~ counsel - fees
fixed -

Rev. C. No. 16270/54-A.E.-C.5.
Urgent.
Confidential.
12.7.54

S. Kanara Collector's office,
Mangalore dated 10.7.54.

From

To

Sri V. Seetharama Servai, B A
Collector of South Kanara.

The Secretary to Government
Revenue Department,
Fort St. George Madras.

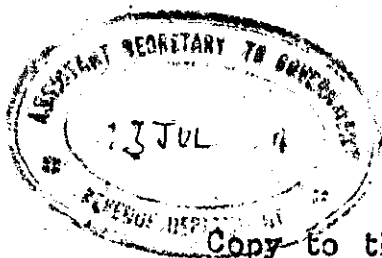
Sir,

TREASURY: South Kanara- Mangalore taluk- Defalcation of
Government money- case committed to the Sessions court- trial-
Assistant of Public Prosecutor- requested.

di p 3348 (N) Sri B. Gangadhar Das, the special Public Prosecutor appointed
for the conduct of the prosecution in the S. Kanara district Treasury
Embezzlement case, since committed to the Sessions court for trial,
now brings to notice that almost all the leading criminal
lawyers of Mangalore are appearing for the accused in the sessions
court. He suggests that in view of the fact that eminent lawyers
are appearing for the accused and that the evidence to be recorded
is voluminous (as there are a number of documents to be filed and a
number of witnesses to be examined) the Public Prosecutor Sri M.M.
Prabhu may be instructed to assist him in the conduct of this case
in the Sessions court. In the circumstances I request that the
Government may be pleased to sanction the assistance of the
Public Prosecutor, Mangalore Sri M.M. Prabhu to the Special
Public Prosecutor in the conduct of the case in the Sessions court.
2. A copy of the letter dated 8.7.54 from the Special Public
Prosecutor in the matter is enclosed for reference.

Yours faithfully,

For Collector.



Copy to the Secretary to the Board of Revenue, Land Revenue, Madras

Copy of letter No. 111 dated 8th July, 1954 from the ~~Attorney General~~
and Government Pleader and Spl. Public Prosecutor, to the ~~Collector~~
of South Kanara.

SUB: TREASURY (South Kanara) - Mangalore Treasury - defalcation of Government money - Criminal case committed - Sessions - Advocate appearing for the accused - particulars - offered.

I have been asked to state as to who are the Advocates who appear for the accused in the abovecase. Almost all the leading criminal lawyers of Mangalore are appearing for the accused, namely, Sri K.S. Hegde, M.A., B.L. M.P., Sri N.N. Saveria, B.A., B.L., M.L.A., Sri S. Shanker Alva, B.A., B.L., Sri G. Somashekar Rao, B.A., B.L., Sri K. Y. Poojary, B.A., B.L., Sri S.P. Lebo, B.A., B.L., Sri K. Narayana Rai, B.A., B.L., Additional Public Prosecutor, and two or three Juniors are also appearing. In this prosecution I was assisted by the Inspector of Police, C.I.D., Sri K.G. Narayana Sastry. He is a witness in the case, and as such I do not think that he would be in a position to sit by my side in the Sessions Court and instruct me. There is a sub Inspector, Sri Ravuthan, whose evidence has been dispensed with and he will be in a position to assist me in the conduct of this case.

However in view of the fact that such eminent lawyers are appearing for the accused, and as the evidence to be recorded is voluminous, as there are a number of documents to be filed and number of witnesses to be examined, if the Government has no objection, the Government can ask the Public Prosecutor, Sri M.M. Prabhu to assist me in the conduct of this case. So, if the Collector is so pleased, in the interest of the case which is really a very heavy and an important one, he may please address the Government, (if need be) or otherwise the Collector himself may ask the Public Prosecutor to assist me in this case, which begins on 19-7-54 and will go on till about the 25th August. So, as it might dis-locate the work of the Public Prosecutor the Sessions Judge. But it is possible to make some of the arrangements to conduct cases before the Sessions Court even Mr. Prabhu is asked to assist me. I may please be informed the steps to be taken in this matter.

-True copy-

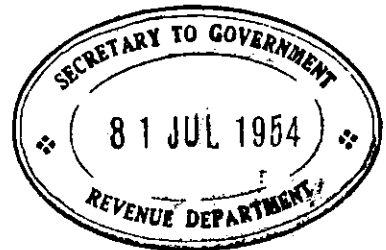


VERY URGENT.
CONFIDENTIAL.
Ref.C.No.16270/54-AHHC-10.

S.Kanara Collector's Office,
Mangalore, dated 28-7-54.

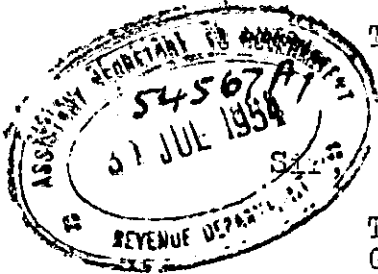
From

Sri V. Seetharama Sazvai, B.A.,
Collector of South Kanara.



To

The Secretary to Government,
Revenue Department, Fort St. George,
M A D R A S.



TREASURY - South Kanara Dt. Treasury - Defalcation of
Government money - Trial of the Case in the Asst. Sessions Court - Assistance to Spl. Public Prosecutor - Orders solicited.

Ref: (1) This Office Ref.C.No.16270/54-AHHC-5 dated 10-7-54.
(2) Board's Ref.T/G. 1940/53-33 (C) Confidential dated 13-7-54.
(3) This office Ref.C.No.16270/54-AHHC-6 dated 20-7-54.

Sri M. M. Prabhu, Public Prosecutor, Mangalore intimates that he is unable to attend to any work other than his work in the Sessions Court and that it is also not possible for him to suggest any suitable arrangements which could be made for the conduct of work before the Sessions Judge, if he ^{were to} ~~write~~ absent himself from that Court. In the circumstances the question of sanctioning of Public Prosecutor's assistance to the Spl. Public Prosecutor may be dropped.

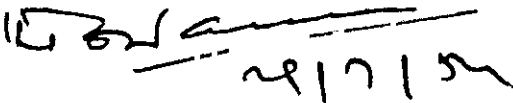
2. Sri B. Gangadhara Das Spl. Public Prosecutor for the conduct of Embezzlement case has since sent another letter dated 26-7-54 explaining the arduous nature of the work and the complications involved in conducting the prosecution in the Asst. Sessions Court, and the necessity for the employment of a Junior counsel to assist him. He suggests that Sri M. Venkatraya Kamath B.A.B.L., who was appointed as his junior counsel in the connected Civil Suit in Government Memo.No.32988A53-12 Rev. Department dated 29-5-54, may be appointed as his junior counsel to assist him in the Criminal case also in the Court of the Asst. Sessions Judge. He has already engaged Sri M. Venkatraya Kamath to assist him from 26-7-54 in anticipation of sanction.

3. In view of the great importance of this case and the arduous ^{nature} ~~nature~~ of the work of the prosecuting counsel against a number of leading lawyers for the accused, I recommend that sanction may be accorded to the Spl. Public Prosecutor, Mangalore to

L
engage Sri M.Vonkatraya Kamath B.A.B.L., Advocate, Mangalore, as his junior for the conduct of the South Kanara District Treasury Embezzlement Case (Sessions Case 17/54) in the court of the Asst. Sessions Judge South Kanara Mangalore on a daily fee of Rs.25/- for work occupying three hours or more in Court and a fee at a lesser rate to be fixed by the Collector when the work is for less than 3 hours a day or is purely nominal.

M) 7/5
The action of the Spl.Public Prosecutor in having employed the junior counsel in anticipation of sanction may also be approved. A copy of the letter received from the Spl.Public Prosecutor is enclosed for information.

W 21/7
Yours faithfully,


For Collector.

Copy to the Secretary to the Board of Revenue, Chepauk, MADRAS-5., in continuation of this office Ref.C.No.16270/54-AHHC Confidential dated 20-7-54.
als/29-7

Copy of Ref.No. 217.54.dated 26.7.1954 from the Government
Pleader, S.Kanara, to the Dt.Magistrate(Executive) and the Collector
of S.Kanara,Mangalore.

--
SUB-CASE AGAINST ROBERTS AND OTHERS. -Sessions case No.17/54 -My
earlier reference - request for an assistant.

In continuation of my previous correspondence
in this matter, I would like to inform you that the trial of the
case had commenced on 19.7.54 before Sri D.Noronha,B.A.,B.L.,
Asst.Sessions Judge,S.Kanara. The first witness Sri Vaidyanatha
Aiyar who was the Pension clerk in April 1953 is being examined. ~~P~~
Through him nearly 340 exhibits have been marked. There are about
500 or more exhibits to be marked in this case.

As I had already stated in my earlier letters
almost all the leading criminal lawyers of the Mangalore bar are
appearing on behalf of the accused. At every stage of the case,
while I am leading evidence, objections as to the admissibility of
evidence, documents documents etc are raised. These objections will
have to be met. On 23.7.54, Sri A.S.Meghe, M.A. B.L. Advocate, who
is appearing for A-1.had filed an application before the court on
the ground of misjoinder of charges. A copy of it is enclosed herewith
This matter is to be argued today 26.7.54.

No doubt,I am getting very good help and assistance,
from the C.I.D.Inspector,Sri K.G.Narayanaswamy, and the C.I.D.sub
Inspector,Sri P.R.Ravuthan, in the matter of selecting and finding
out the exhibits etc. Since Sri K.G.Narayanaswamy, is a witness
he is not allowed to sit in the court. Hence the work of selecting,
sorting out exhibits and finding out the relevant entries etc.
is being done by the Sub Inspector, who is of imminent help to me
in the court in the matter of conducting the case.

But this sort of help is not sufficient. The entire
case bristles with legal and practical complications. This is a
very great strain on me. In fact I had a severe cold and slight
fever on the night of 25.7.54, but still I had to attend court
on 26.7.54, though normally I would like to take a days rest. So
in the case some such thing happens to me the whole case is likely
to be held up. Again as we proceed the evidence will have to be
marshalled, the connection between the various exhibits will have
to be established by means of a tabular statement and hence this case

involves a lot of work, which I think will be humanly impossible for one Advocate to do.

Since the system of marking the exhibits in the Sessions Court was changed and since we are going on marking with numerals even in the case of entries in books and since we had followed the method of marking with numerals so far as the main book is concerned and with alphabets so far as entries are concerned all the statements made with reference to the evidence led in the lower courts will have to be changed. So a lot of work is involved in this case. I may also add that there was not much cross examination in the committed court. Only a few witnesses were formally put a few questions.

As a measure of abundant caution and with the main view of safeguarding the interest of the STATE I had requested Sri M. Venkatraya Kamath, B.A., B.L., Advocate, Mangalore to assist me. He is appearing as my Junior in the Civil suit against Roberts and others and he is quite a good advocate. In fact he has promised to assist me from today and he will be coming to court today. I have obtained a letter of consent from him and he is prepared to accept this engagement on a daily fee of Rs.25/- The letter is enclosed.

So the Collector may be pleased to approve my action and may please address the Government and get necessary sanction, for the appointment of Sri M. Venkatraya Kamath, to assist me.

I request you to be good enough to treat this matter as extremely urgent and to have telegraphic communications in this matter.

As I am very busy I am not able to give any details about the progress of the case. I will do so in a few days and will keep the Collector, informed as to the progress of the case from time to time.

Thanking you.

Sd, xx, xx
Government Pleader, S.K

888 J.S. 75/12
22/12/12

Copy of letter No..Nil dated 24-7-1954 from M. Venkatraya Kamath
Advocate, Mangalore.

Dear Sri. Gangadhar Das,

As per your request, to assist you in the conduct of the
case against Roberts and others (Sessions Case No.17/54) on
the file of the Assistant Sessions Judge of S.K., I will assist
you from 26-7-54. The fee of Rs.25/- suggested by you though
is not commensurate with the work to be done in view of the
fact, that I am a Junior counsel engaged by you in the conduct
of a Civil suit against D.Roberts and others, I am prepared to
accept your offer.

Thanking You,

Sd. M.Venkatraya Kamath.

-True copy-

CSJ
22-7

IN THE COURT OF THE ASSISTANT SESSIONS JUDGE OF SOUTH KANARA
MANGALORE.

Sessions Case No. 17 of 1954.

Between

State

complainant

and.

D. Roberts and others

Accused:

APPLICATION FILED BY THE 1ST ACCUSED IN THE ABOVE CASE
UNDER SECTIONS 233, 35 and 561A OF
THE CRIMINAL PROCEDURE CODE

1. In the above case the Accused before the court have been charged for an offence under section 120B of the Indian Penal Code read with section 420 I.P.C. Some of the individual accused have been further charged under sections 468, 471, 477A, 430 I.P.C. etc. Several *distinct* charges are tried together.

2. This accused begs to submit that the attempt of the Prosecution to include this accused in the charge. Section 120 B I.P.C. is not a bonafide one. It is an attempt to get the case within the ambit of section 235 Cr.P.C. and thus enable the Prosecution to introduce totally irrelevant evidence. The object seems to be to prejudice the case against the accused.

3. Taking advantage of the charge under section 120B, I.P.C. voluminous evidence covering a period of 6 years is being introduced. Apart from the several charges framed; evidence is being led on, over hundred counts of alleged cheating, forgery fabrication etc. Distinct and ~~distinct~~ different transactions are tried to be placed before the court with a view to prejudice the court by the multitude of charges and counts and make it almost impossible for the accused to understand the nature of the charges levelled against him. It has caused complete confusion and it interferes with the definite proof of distinct offences which it is the object of all criminal procedure to obtain. Apart from the legal defect it is improper and unfair to the accused. It embarrasses the accused and frequently the mere fact of accusing him of several things is intended to tend to increase the probability of his being found guilty and amounts to giving evidence of bad character against him. A roving enquiry has been started which has

which has drifted from the main objective resulting in prejudice to the accused. The enquiry was allowed to extend over a period of 6 years and voluminous records have been placed before the court which has little or no bearing upon the principal accusation and they have been ushered in the process of the trial on definite charges. The object of the prosecution in joining these charges and counts is to seek an opportunity of leading evidence or other transactions of the accused and thus intensify the suspicion and cause embarrassment to the accused in their defence. Even if this evidence is legally admissible, this practice has been uniformly depreciated by judicial verdicts and has been held to prejudice the accused and work havoc in the mind of the judge and the assessors. It has been held that this practice would make it very difficult, if not impossible for them to express any rational opinion. A joint trial of this nature is improper.

4. When objection was taken on this account on behalf of this accused, the learned Special Public Prosecutor contended that to prove the total amount cheated it is necessary to adduce all this evidence. It is submitted in a charge of cheating the total amount is wholly unnecessary and has no relevancy to the charge in question.

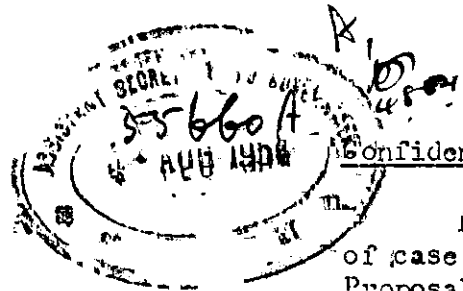
5. Under the circumstances herein above set out this accused prays that the court may be pleased to restrict the enquiry to a specified number of charges and counts. So that the accused may be able to focus their attention and may be in a position to offer satisfactory explanation to the accusation against him.

Handwritten signature
23.7.54

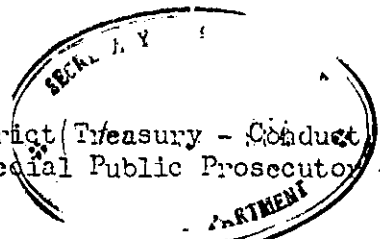
Sd xx xx
1st accused.

Sd xx xx
Advocate for 1st accused.

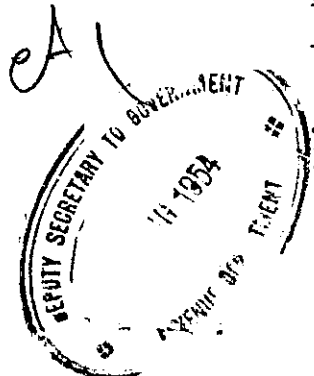
Handwritten signature
23.7.54



Revenue Department
Subject



Embezzlement - (South Kanara) - District Treasury - Conduct of case in Sessions Court - Assistant to Special Public Prosecutor - Proposals - Submitted.



Ref.T/G.1940/53-34 (C)
dated the 3rd August 1954.

Station: Madras
From

Sri T.N.S. Raghavan, I.C.S., Commr. of Land Revenue.
Sri P. Sivasankaran Pillai, I.A.S., Secy. Bd. of Rev. (L.R.)

Read the following:-

T.O. Rev 548.54

From the Collector of South Kanara, Ref. C.No. 16270/54 AHHC dated 10-7-54.

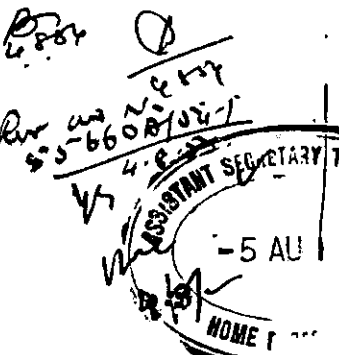
Home no. in
Continuation of

Board's Ref.T/G.1940/53-33 (C) dated 13-7-1954.
From the Collector of South Kanara, Ref.C.No.16270/54 AHHC dated 20-7-54 and dated 28-7-54.

Rev no N. 545670/54-1
2.1.54

REFERENCE

The Board invites the attention of the Government to the correspondence cited and recommends the appointment of Sri M. Venkatraya Kamath as a junior counsel to the Special Public Prosecutor, Mangalore for conducting S.C.No.17 of 1954 on the file of the Assistant Sessions Judge, South Kanara. The Special Public Prosecutor's action in employing the junior counsel from 20-7-54 in anticipation of sanction of the Government, may also be approved.



105764
C3

The junior Counsel may be paid a fee of Rs.25/- (Rs. Twenty five only) per diem for work occupying three hours or more in the Court, and a fee at a lesser rate to be fixed by the Collector when the work is far less than 3 hours a day or is purely nominal.

T. V. S. S.
for Secretary.

✓ To the Secretary to Government, Revenue Department.
Copy to the Collector of South Kanara.

v.c/3.8.

3/8-

File No. 97304/1451. In Section
Jm. in Section
6/8

1-33.7.54
picf. 1 p. 5. y

17

HOME DEPARTMENT.

Ms
G.O. No.

Public Prosecutors - Special -
South Kanara Dt. - Treasury
Embezzlement Case (Sessions Case
No. 17/54 on the file of the
Asst. Sessions Judge of South
Kanara, Mangalore) - Sri Venkatraya
Kamath, Advocate, Mangalore
appointed as junior counsel -
Fees fixed.

Read: G.O. Ms. 296, Home, d/5.2.54.
From the Collr. of South Kanara,
Ref. No. 16270/54-AHHC-5 and -10,
d/10.7.54 and 28.7.54.

ORDER:

Sri M. Venkatraya Kamath, Advocate,
Mangalore is appointed junior counsel to
assist the Spl. P.P. in the conduct of
the prosecution of the South Kanara
District Treasury Embezzlement Case
before the Asst. Sessions Judge of
South Kanara at Mangalore.

2. Sri M. Venkatraya Kamath will be
paid a day fee of Rs.25 for every day of
hearing of the case in court for 3 hours
or more and a reduced ^{day} fee ^{at the discretion of the Collr.} ~~per day~~ if the
work in court is less than 3 hours ~~or~~
~~is purely nominal.~~

3/8/54 3. The action of the spl.
public prosecutor in having
employed Sri M. Venkatraya Kamath
as junior counsel in anticipation
of sanction is approved in the
spl. circumstances pointed by the
Collector.

To the Collr. of S. Kanara at Mangalore.
" Bd. of Rev.
" I.C. of Police.
" A.C. thro' Finance.
" Regr., High Court, Madras.
" Rev. Dept.
Spare copies 3.

2/8
6/8

11/8/54

6/8/54

11/8

CO. 54567A/54

App 1-2 of

Treasury - South Kanara ST
Treasury Defalcation Case - Trial
in Dist Sessions Court - Assistance
to Special Public Prosecutor - Proposal
from the Collector of South Kanara
Ref. C.N. 16270/54-A.H.H.C-10 D 28.7.54.

To AS.

Please see the letter from
the Collector of South Kanara
in the CF.

Sent to Home with
Rev. No 49627A/54
16.7.54

2/ In his letter No 16270/54
A.H.H.C-5 D 10.7.54, the Collector of
South Kanara submitted proposals
for sanctioning the assistance of
the Public Prosecutor, ^{Mangalore} to the Special
Public Prosecutor, South Kanara. It
was passed on to Home with
support with Revenue C.O.
No 49627A/54-1 D 16.7.54. In his
reference in the CF the
Collector has now reported
that for the reasons stated
in para 1 of App 1 of, the question
of sanctioning of Public Prosecutor's
assistance to the Spl. Public
Prosecutor may be dropped. He
has requested that ^{without} sanction
may be accorded to the Spl.
Public Prosecutor to engage

518801

'K' app 1 of

L app 1-2 of

ct 1

Sri M. Venkatasaya Kumar B.A. B.L.,
 Advocate, Mangalore, as his junior
 for the conduct of the case in the court of
 District Sessions Judge, South Kanara
 on a daily fee of Rs 25/- for work
 occupying three hours or more
 in court and a fee at a lesser
 rate to be fixed by the Collector
 when the work is for less than
 3 hours a day or is purely
 nominal. The collector's
 proposals may be
 supported in this Dept. The
 action of the Spt Public
 Prosecutor in having employed
 the junior Counsel in anticipation
 of sanction may also be
 approved. The file may
 be remitted to Home for
 further action and in 2 orders.

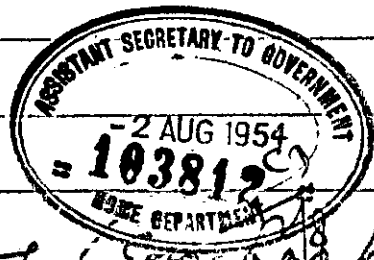
Lr p 2 of

Sr M lr p 2 of

31754

2854

2854



of 1 copy has been
 orders - Sr M p 2 of

Home.

Home

G

54567 M/24-7

2-8-54

C No 9730905 I / 54

HOME DEPARTMENT.

The notes of Revenue on pp.1 and 3-4 ante may be perused.

2. In G.O. No. 296, Home, d/5.2.54, Sri B. Gangadardas was appointed Spl. P.P. to conduct the prosecution in the South Kanara District Treasury Embezzlement Case both in the committal court and in the Sessions Court. In his letter to the Collr. of South Kanara the Spl. P.P. requested the employment of a junior counsel for assisting him in the prosecution ^{before the Sessions Court,} having regard to the fact that the prosecution is faced with the huge task of producing a mass of documentary evidence relating to each and every transaction at the Treasury Dy.Collr.'s Office, the District Treasury and the Imperial Bank for bringing home the guilt of the accused who have systematically embezzled the South Kanara District Treasury from February 1947 right up to April 1953 to the extent of 3½ lakhs of rupees. The Spl. P.P. has explained at length the arduous nature of the work and the complications involved in conducting the prosecution before the Sessions Court and the necessity for employment of a junior counsel to assist him. In the first instance he asked for the assistance of the P.P., Mangalore, Sri M.A. Prabhu. As it was not possible for the P.P. to suggest any suitable arrangements which could be made for the conduct of his work before the Sessions Judge, the Collr. has dropped his previous proposal of deputing the P.P. to assist the Spl. P.P. In the circumstances the Spl. P.P. has in anticipation of sanction, ~~and~~ engaged the services of Sri M. Venkatraya Kamath, Advocate, Mangalore who was appointed as his junior counsel in the connected civil suit, to assist him in the prosecution of the case before the Asst. Sessions

p 23, 52, ⑩.

p 9-10 cf.

M at p 20 of 3

p 9-10 cf.

p 3 cf.

para 1, p 5 cf.

✓ p 1 cf.

S at p 5 cf.

Judge's Court. In view of the great importance of this case and the difficult nature of the work of the prosecuting counsel against a number of leading lawyers appearing for the accused, the Collr. recommends that junior assistance may be given to the Spl. P.P. and that Sri M. Venkatraya Kamath, Advocate, Mangalore may be appointed as his junior on a daily fee of Rs.25/- for work occupying 3 hours or more in court and a fee at a reduced rate in the discretion of the Collr. on days when the work is for less than 3 hours or is purely formal. Revenue support the proposal of the Collr. In the circumstances set out above the recommendation of the Collr. for the employment of Sri Venkatraya Kamath as Junior Counsel in the conduct of the prosecution of the case and for payment of fees to the junior counsel at the rate of Rs.25/- with the condition attached by the No upper limit can be fixed for the junior in the case, as it cannot be definitely stated the no. of days the case will occupy. Collr. may be accepted. Subject to orders a draft order is submitted for approval. Revenue and Finance may see for acceptance.

31/8/54

4/8/54

4/8

Rec

Rec. Dept.

Fin

Maybe passed as passed on to Finance. A reference for W. Bondy, Rev. in which W. Bondy has suggested. The proposal given by him since has sent to the Home Dept.

4/8/54

4.8.54

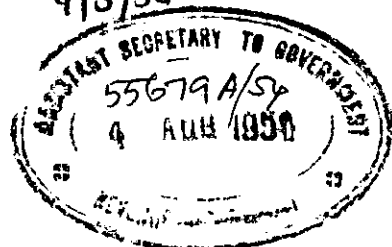
Fin

L 11.3

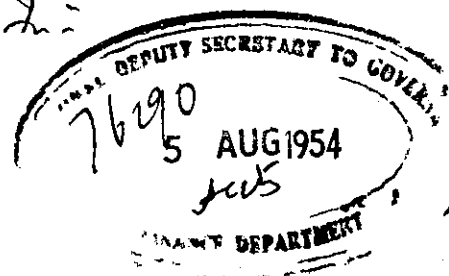
L 11.4

of 1st
on 15.8.54
1-12-50

Home no 97309 CS2/SWJ
4/8/54



Rev no 55679A/647
4.8.54
(Filed in)



A \

Finance (Accounts)

The draft order below may be accepted: The case may be returned to me Home. ~~to the Ministry of ()~~

re
5.8.54

~~5008~~
5852

Home Dept

Issue

f03
618752.



Fin U.O. 76290- Acct/54-1
5.8.54.

Cu Ms 2357 Home d 6-8-1954

✓ p17cf.